IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.K.MOHANAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Crl.MC.No. 941 of 2003()

CC.221/2002 of JUDL.MAGISTRATE OF FIRST CLASS, VADAKARA

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PETITIONER: ACCUSED NO.3

A.L.REESHMA, BINDU NIVAS,
MALLAR ROAD, THALASSERY.

BY ADV. SRI.N.A.MURALEEDHARAN
SRI.P.V.SURENDRANATH

RESPONDENTS: COMPLAINANT/ACCUSED NOS. 1 & 2 & STATE

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1. FOOD INSPECTOR, VADAKARA CIRCLE,
VADAKARA.

2. M.A.GIRISH,
S/O.M.A.ANANTHAN, O.P. X/352,
M.A.STORES, NADAPURAM ROAD,
VADAKARA TALUK.

3. M.A.ANANTHAN, SANTHA NIVAS,
RAYARANGOTH P.O., MADAPPILLY COLLEGE,
VADAKARA.

4. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

r1 & 2 BY PUBLIC PROSECUTOR SRI K.C.SANTHOSH KUMAR.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. 1098/03 IN CRL.M.C.941/2003

dismissed.

9/8/2007. SD/- V.K.MOHANAN, JUDGE.

//TRUE COPY//

V.K.MOHANAN, J.

CRL.M.C.NO. 941 of 2003

Dated this the 9th day of August 2007

ORDER

The 3rd accused in C.C.No.221/2002 in the file of the Judicial First Class Magistrate Court, Vadakara is the petitioner who challenged the entire proceedings in the above case under section 482 of Cr.P.C.

2. The allegation against the the petitioner and other accused is that they have committed the offences punishable under Section 16(IA), 7(i) read with section 2(ia)(j) and Rule 23 and 29 of the Prevention of Food Adulteration Act and Rules framed thereunder. The Ist respondent complainant who is the Food Inspector, Vadakara filed a complaint under section 16(IA)(i), Section 7(i) read with section 2(ia) (j) and Rule 23 and 29 of the P.F.A Rules. The case of the complainant is that on 18-10-2001, the Food Inspector inspected the shop of the Ist accused who is the 2nd respondent in the Crl.M.C. and purchased one Polythene packet containing 1 k.g. of fried green peas (Masala Pattani) for the purpose of analysis. On analysis, the Public Analyst

opined as per Annexure III report that the sample contained synthetic food Colours Brilliant Blue F.C.F.(colour index 42090) and Tartrazine (colour Index 19140) and is therefore adulterated in view of the Prevention of Food Adulteration Rules 1955. Among the various other contentions, the counsel appearing for the petitioner strenuously argued that no offence is disclosed on a perusal of the complaint, especially, in the light of annexure III report. The counsel drawn my attention and submitted that on a plain reading of Rule 28 and 29 of the rules from which it can be seen that using of Tartrazine and Brilliant Blue FCF which are mentioned in the table attached to Rule 28 are permissible, of course, subject to the Rule 29. In view of Rule 29(c), use of permitted synthetic food colours are not prohibited with respect to peas, strawberries and cherries in hermetically sealed containers, preserved or processed pappaya, canned tomato juice fruit syrups, fruit squash, fruit cordial, jellies, jam, marmalade, candied crystallised or glazed fruits. On the strength of the above rules, counsel submits that no offence is disclosed on a perusal of the complaint, Annexure I, and Annexure III report.

3. On the other hand, the learned Public Prosecutor invited my attention to Rule 30 and submitted that certain limits are prescribed in using the permitted synthetic food colours. The above submission would have much force if Anenxure III report contains the details with respect to the presence of the materials in terms of Rule 30. Annexure III report does not contain the details of the strength of permitted synthetic food colours or present in the sample subjected for analysis. In the absence of those materials, it cannot be held that the food which subjected to chemical analysis is an adulterated one especially in the light of Rule 30. The authorities issued the Annexure III report are presumably aware of the provisions contained in Rule 30 and therefore, it is their duty to mention the materials and datas, which are material under Rule 30 of the Rules. Obviously those materials are absent in Annexure III report and therefore, it cannot be said that the food which subjected for chemical analysis contained any kind of adulteration which warranting prosecution against the petitioner. The alleged occurrence has taken place on 18-10-2001 and now, about 6 years are over and even if the petitioner and other

accused are directed to undergo the ordeal of trial, the materials available, especially, Annexure III, is not helpful for the prosecution to establish the case against the accused. Therefore it is only just and proper to quash all the proceedings in C.C.No.221/2002 of the JFCM, Vadakara, for the ends of justice.

Therefore all proceedings in C.C.No. 221/2002 on the file of the JFCM, Vadakara is quashed and the Crl.M.C. is allowed. No cost.

V.K.MOHANAN, JUDGE.

Kvm/

V.K.MOHANAN, J.

CRL.M.C.No.941 OF 2003

Order

Dated9-8-2007